IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2850 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

PRAVINKUMAR L MEHTA - Petitioner(s)
Versus
SUPERINTENDENT & 1 - Respondent(s)

==========

Appearance :
NOTICE SERVED for Petitioner(s) : 1,MR BD KARIA for Petitioner(s) : 1,MR TEJAS D KARIA for Petitioner(s) : 1,
MR L B DABHI LD.AGP (s) : 1 - 2.

==========

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 02/02/2006

ORAL JUDGMENT

ORAL JUDGMENT

1. The petitioner has filed this petition under

Article 226 of the Constitution of India praying for direction to the respondent authorities to make petitioner permanent. The petitioner has also prayed for stay restraining the respondents from relieving the petitioner from his services.

2. The petition was admitted and rule was issued on 23.06.1988. The petition was ordered to be heard alongwith SCA No.2432 of 1983. By way of interim relief, this court has directed that status-quo regarding petitioner's service condition may be maintained till the final hearing of this petition.

3. Mr.B.D.Karia, learned Advocate appearing for the petitioner submitted that the father of the petitioner was serving as Peon in the Lands and Records Department. The petitioner's father expired on 12.09.1980 during the service. The petitioner after attaining the age of majority and relying upon the Government Resolution dated 12.08.1982 made an application for his appointment on the said post. Pursuant to the said application, the petitioner was appointed and he took charge from

1.11.1987. The petitioner has continued in service with the said office without break for more than six months. As the petitioner had served for continuous period of more than six months he could not be relieved without due process of law established under the Constitution as well as under the Bombay Civil Service Rules. He has further submitted that according to the appointment order, the petitioner was to be made permanent if there was vacancy created in the said post. He has further submitted that even one peon was appointed as Chowkidar in place of Himmatsing Hathising Zala who retired on 30th April, 1988. It the list was prepared, the appointment of the petitioner might have become permanent. The petitioner should not be relieved from the service as the list has so far not been prepared and as per the Resolution the petitioner should have been permanent.

4. Mr.Karia has further submitted that he is not aware about the latest position. However, petitioner is still in service by virtue of interim order passed by this Court. Even otherwise while

disposing of Special Civil Application No.2432 of 1983 and other similar matters i.e. SCA Nos.3460 of 1983 and 3502 of 1983, this court in its decision dated 03.10.97 had observed that in these facts and circumstances, interest of justice would be met in case these Special Civil Applications are disposed of with directions to the respondent, the Secretary, Revenue Department, Sachivalaya, Gandhinagar, to consider the cases of these petitioners of their regularization of services, i.e. to give them regular and permanent appointment so that they may not suffer any break in services for about four to five months in a year as well as they may not be deprived of retirementary benefits on reaching the age of superannuation. The Court has also ordered to continue interim relief till the petitioners' cases in those petitions, would be decided by the respondent authorities. The court has also directed that in case, the claim of those petitioners were not accepted by the respondent authorities, a reasoned order may be passed and a copy of the same may be sent to the petitioners by registered post. The court has also granted

liberty to the petitioners to revive the petition in case of any difficulty.

5. Considering the aforesaid order passed in other cognate matters, the court is of the view that if the present petition is disposed of on the same line, it will meet with the end of justice. The court, therefore, directs the respondent authorities that if the petitioner is not made permanent till this date, the case of the petitioner may be considered for regularization and for making him permanent so that, the petitioner may not deprive of retiral benefits on reaching the age of superannuation. The interim relief granted by this court earlier on 23.06.1988 would be continued till the petitioner's case is decided by the respondent authorities. In case, the claim of the petitioner is not accepted by the respondent authorities, reasoned order may be passed and copy of the same may be served to the petitioner by registered post. The petitioner is granted liberty to approach this Court in case of difficulty and if need so arises in future.

6. Subject to the aforesaid directions and observations, this petition is accordingly disposed of to the above extent. Rule is made absolute without any order as to costs.

(K.A.PUJ, J.)

amit